



## *'Directly' Speaking . . .*

On several occasions since my appointment as Director of Revenue in March, I have discussed the goals and plans of the department with groups of taxpayers as well as attorneys, accountants and other tax practitioners. In this and future editions of the *Tax Bulletin*, I will try to provide similar information to everyone interested, as well as seeking your opinion on our policies, practices and new directions.

In addition, we are developing several additional opportunities for interaction with you, including a statewide tax conference and Director's Advisory Group meetings in each region of the state and focused on specific topics of interest.

In this first message, I'd like to provide you with an overview of the leadership philosophy of the department. My vision for the department can be summarized in one word: Simplify. I want our policies and practices to be as clear, consistent and direct as possible. I believe this will lead to improved performance in our tax collection function.

As we work to achieve this vision and improve the performance of the department, I believe taxpayers, as well as the motor vehicle owners and operators we also serve, will see direct benefits:

1. you will spend less time and money complying with our requirements;
2. more Missourians will voluntarily pay their legal share of taxes;
3. you will receive more information about the results achieved with the money you invest, both in state

government in general and the Department of Revenue in particular; and

4. as a result of these improvements and others, you and our other customers will be more satisfied with the products and services we provide.

In pursuing this vision for the department, and achieving these results, I am committed to three values. I call them the *bottom* line, the *customer* line and the *front* line. Let me describe briefly what these values encompass.

The *bottom* line refers to the results for which the department will be held accountable. Members of the department's senior management have agreed on the four main results, mentioned above, that will guide improvement efforts.

The *customer* line refers to the department's commitment to talk to its customers before designing major improvements. The department has already begun talking to our customers as we launch our improvement efforts.

The *front* line addresses the department's determination to obtain the input of all employees, but especially those who know best how to achieve the results customers desire. This value will help ensure that changes are effective and enduring.

I would welcome your views about the efforts we are making to simplify and improve government performance. In fact, we invite you to participate in the process as we move ahead. Please let me know what you think.

Director of Revenue

## Local Use Tax Refunds

by Ken Pearson, Administrator, Tax Administration Bureau, (573) 751-3804

The department is pleased to report that it has made significant progress in issuing local use tax refunds to taxpayers.

By July 3, the department had issued over \$40 million of the estimated \$95 million in refund claims filed by taxpayers.

Following the unanimous ruling of the Missouri Supreme Court in **St. Charles County and Bernadette Business Forms, Inc. v. Department of Revenue and Director of Revenue**, Case No. 79616 (Mo. banc, 1998), the Cole County Circuit Court issued final judgments ordering the department to issue refunds consistent with the Missouri Supreme Court decision. It further ordered that the refunds be paid from local sales tax distributions. (See the Spring 1998 edition of the *Tax Bulletin* for details of the Missouri Supreme Court decision.)

In preparation for this major effort, the department sent letters to cities and counties that had received local use tax and asked those that were financially able to make an early payment of its estimated refund liability to do so. Many cities and several counties responded by paying the estimate from local use tax that had been placed in escrow. Early payments exceeded \$33 million. The department began withholding from monthly sales tax distributions of those cities and counties that did not make the early payment.

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## Sales Tax Minimum Bond Amount Lowered

by Doug Loethen, Tax Administration Bureau, (573) 751-3804

Section 144.087, Revised Statutes of Missouri, requires all applicants for a retail sales tax license to post bond in an amount not more than three times the average monthly tax liability of the applicant. This statute also gives the Director discretion to set the bond to an amount **less** than three times the average monthly tax liability of the applicant. The department realizes that posting a bond can be a burden and may actually prevent some taxpayers from starting a small business. Therefore, the department has lowered the minimum bond amount to \$25 for those that qualify. In order to qualify for the \$25 bond, an applicant's average monthly tax liability for a three (3) month period must be less than \$500. If it is equal to \$500 or higher, the applicant must post bond equal to his/her tax liability. (The department reviews all bonds and may adjust the bond amount based on

the taxes submitted by a previous owner/operator of the business, the type of business, and the location of the business.) After establishing a record of satisfactory tax compliance for at least two (2) consecutive years the bond may be refunded at the request of the taxpayer.

## Local Use Tax

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The department is committed to processing the remaining refunds as quickly as administratively possible and as quickly as the funds are available.

We wish to thank those cities and counties that made an early payment of the estimated liability. These payments have been a major factor in the success of the refund process.

## Carole Iles Named DOR General Counsel

Director Quentin Wilson announced the appointment of Carole Lewis Iles, as General Counsel of the department.

Ms. Iles, a former assistant attorney general with the state of Missouri, was most recently an attorney in private practice, associated with the law firm of Bryan Cave, LLP, St. Louis. She has been chairperson of the Missouri Bar Association's Taxation Law Committee since 1996.

Before joining the Attorney General's Office in 1987, Ms. Iles also served as a clerk to Missouri Supreme Court Judge Charles B. Blackmar. She earned her juris doctor degree from the University of Missouri-Columbia School of Law, where she was a member of the Order of the Coif and the Missouri Law Review.

## Taxpayer Services Offices Move

by Dave Zanone, Taxpayer Services Bureau, (573) 751-7791

On June 8, 1998 the Jefferson City Office of Taxpayer Services moved to 2018 William Street in Jefferson City. The phone number remains (573) 751-7191. The office continues to provide a full range of walk-in taxpayer services including business tax registration and income tax assistance.

The Kirksville Office of Taxpayer Services will close effective September 30, 1998. The Jefferson City office will service the Kirksville region once the Kirksville office is closed. In 1999, the department plans to open a full service office in Columbia. At that time, the Columbia office will serve the Kirksville region.

## New Automated Withholding Tax System Update

by Karen Creed, Tax Administration Bureau, (573) 751-3804

In January 1998, the department began using a new automated tax system for processing employer withholding tax returns. The new system has virtually eliminated all of the department's previous manual processes. The department can now easily process amended returns for overpayment, speeding up the process of issuing a refund check. Overpayments and credits are now automatically applied to underpayments. Financial return maintenance and error correction functions are now done online, providing instant account correction. The department can now automatically file tax liens and judgments. New system screen designs allow employees to quickly determine an account status. Switching to the eight (8) digit Missouri Integrated Tax System (MITS) account number enables department employees to work with business accounts that file corporate and/or sales/use taxes in addition to employer withholding tax in a more efficient manner.

With the implementation of the new withholding tax system, the department has identified several common withholding tax filing errors.

1. Employers do not file the required return when there is no withholding.
2. Employers use an invalid MITS tax ID number.
3. Employers file additional returns using the Form MO-941, Employer's Return of Income Taxes Withheld, instead of the Form MO-941U, Employer's Withholding Tax Underpayment Amended Return.
4. Employers file returns reporting **net** tax withheld on line 1 instead of reporting the **total** tax withheld on line 1 and the compensation deduction on line 2.
5. Employers file Form MO-941, Employer's Return of Income Tax Withheld, with prepayments, instead of the Form MO-941P, Employer's Quarter-Monthly Payment of Income Taxes Withheld.
6. Quarter-Monthly filers do not file Form MO-941, Employer's Return of Income Taxes Withheld, to reconcile payments made for the month.
7. Employers continue to file zero returns after its account has been closed with Missouri.



Missouri Department of Revenue

**Mel Carnahan**, Governor; **Quentin Wilson**, Director of Revenue; **Carol Russell Fischer**, Director, Division of Taxation and Collection

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## Legislative Update

Vickie Wood, Office of Legislation and Regulations, (573) 751-2110

The General Assembly approved 13 bills relating to taxation during the past legislative session. A synopsis of each measure is provided below. Each synopsis also includes a notation if the Governor signed the bill.

**HB 1301 - Filing Frequency & Bill of Rights** - Allows the Director to reduce the tax filing frequencies of taxpayers filing sales and use taxes and withholding taxes. Also allows the Director to increase the threshold before a taxpayer must file and pay declarations of individual income tax or corporation income tax and expands provisions of the *Taxpayer Bill of Rights*. The current law includes provisions requiring the Department of Revenue (DOR) to notify the taxpayer in writing of his/her right to appeal a state income tax assessment and a requirement to waive any penalty or interest assessed as the result of negligence of any employee of the DOR in dealing with a sales or use tax account. The bill expands both provisions to apply to both state income taxes and sales/use taxes. Signed 07/13/98.

**HB 1519 - National Guard Trust Fund** - Revises laws relating to the Missouri National Guard, Missouri Veterans Commission, and the distribution of moneys from the Gaming Commission Fund. It also allows individuals and corporations, beginning 1/1/99, to designate on the annual state income tax form a minimum of \$2 to be contributed to the Missouri National Guard Trust Fund. Signed 06/17/98.

**HB 1656 - Tax Relief** - Provides an incentive for businesses to locate and invest in distressed communities. Distressed communities are defined as: (1) any city in a metropolitan area which has a median household income of less than 70% of the median income for the entire metropolitan area; (2) any census block group in a metropolitan area or contiguous block groups with a population of a least 2,500 which has a median household income that is less than 70% of the median income for the entire metropolitan area; (3) any city not located in a metropolitan area which has a median household income that is less than 70% of the median income for the entire nonmetropolitan area of the state; or (4) any census block group or contiguous block groups with a popula-

tion of a least 2,500 not located in a metropolitan area which has a median household income that is less than 70% of the median income for the entire nonmetropolitan area of the state.

It creates the following new incentives through income tax credits. (1) An income tax, corporate franchise tax, or financial institutions tax credit for certain businesses with 100 or fewer employees for which payroll taxes are paid and which have 75% of such employees located at a location in a distressed community. Eligible businesses are businesses which primarily conduct manufacturing, create biomedical products or research, design or create medical devices, conduct scientific research, animal research, computer software design or development, computer programming, telecommunications services, Internet applications services or programs and professional firms. To qualify, the business must locate its operations in a distressed community after 1/1/99. The credit is equal to 25% of the income tax paid on income earned at the location within the distressed community for each of the first 3 years after moving into a distressed community. The maximum amount of credits per taxpayer is limited to \$125,000 per year. (2) An income tax, corporate franchise tax, or financial institutions tax credit equal to 40% of the amount of funds expended for computer equipment and maintenance, medical laboratories and equipment, research laboratory equipment, manufacturing equipment, fiber optic equipment, high speed telecommunications, or wiring or software development for businesses which qualify under the above provisions or which are located in a distressed community prior to the effective date of this bill for each of the three tax years. The maximum amount of credit is limited to \$75,000 per taxpayer per year. This credit could be taken in lieu of the credit outlined in (1) above. An income tax credit is also authorized for certain businesses already located in a distressed community prior to the effective date of this act. The credit is equal to 25% of income taxes owed up to a maximum of \$75,000 per taxpayer for expenditures made for certain equipment with a maximum statewide cap of \$750,000. Both (1) and (2) are limited statewide to \$10 million per year and will sunset in 2004. The Department of Economic Development (DED) will be responsible for determining which taxpayers are eligible for these credits and notifying taxpayers for compliance with the statewide cap. (3)

An individual income tax credit for employees for whom payroll taxes are paid by the aforementioned businesses equal to 1.5% of gross salary earned at the business located in the distressed community. The employer is responsible for figuring the credit and reporting the credit amount to the employee and the DOR. (4) An income tax, corporate franchise tax or financial institutions tax credit equal to 50% of any capital investment in transportation development limited to aviation, mass transportation, railroads, ports, waterborne transportation, or rolling stock which are part of a development plan approved by the municipality and the appropriate local transit agency, if located in a distressed community. This credit is limited to \$10 million statewide for each year.

The bill modifies the following existing tax incentive programs to include distressed communities. (1) Expands the definition of "assessment" under the Build Missouri Program to include 10% of the gross wages paid to eligible employees if the economic development project is located in a distressed community and reduces the number of new jobs which have to be created in such community from 500 to 200. (2) Requires a letter of intent to be filed with the DED at least 15 days prior to the commencement of commercial operations at a new business facility and increases various tax credits for economic development projects located in distressed communities. (3) Adds an additional \$4 million of tax credits authorized against the state insurance premiums tax liability under the Capco Seed Capital Fund Program to be apportioned to businesses and investments in distressed communities. (4) Increases the \$5 million statewide cap to \$9 million under the Missouri Small Business Investment Tax Credit Program and requires \$4 million to be used for credits for investments in certain small businesses located in distressed communities. (5) Authorizes the Missouri Housing Development Commission to assist not only builders and developers of low to moderate income housing but also builders and developers of any housing regardless of income levels, built or rehabilitated in distressed communities. (6) Establishes the Missouri Individual Training Account Program within the DED to apply only within distressed communities. An employer must notify the department of its intent to participate and to pay the cost of classroom training for its

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# Court Cases

by General Counsel's Office, (573) 751-2633

## Income Tax

**Suburban Newspapers of Greater St. Louis, Inc., successor by merger to: North County Publications, Inc., etc., et al. v. Director of Revenue**, No. 80305 (Mo. Supreme Court, 5/26/98).

The Missouri Supreme Court (Court) reversed the Administrative Hearing Commission's (AHC) decision that the Director properly exercised authority under Section 143.431.3, RSMo 1994, and 12 CSR 10-2.045(38): (1) retroactively to revoke an affiliated group's statutory obligation to file consolidated Missouri corporation income tax returns following the filing of a valid election to file on a consolidated basis and (2) to require the computation of Missouri corporate income tax on a separate return basis on the grounds that the consolidated returns did not "clearly . . . reflect the Missouri taxable income derived from sources within this state."

In 1984 an affiliated group ("JCI Group") made a valid election under Section 143.431, RSMo 1994, to file consolidated Missouri corporate income tax returns and continued to file consolidated Missouri returns through the tax years at issue. The three-factor apportionment calculations by JCI Group for these periods were accurate as to Missouri income tax liability and in accordance with generally accepted accounting principles.

In 1992 the Director revoked JCI Group's consolidated returns for 1988-1991 and re-

calculated the Missouri income tax liability of certain of the members on a separate company basis. The Director issued deficiency notices to seven of the companies, who appealed the assessments.

The Court held that JCI Group filed returns in accordance with Section 143.431, RSMo 1994, and accurately calculated its Missouri taxable income in accordance with the three-factor apportionment formula outlined in the multistate tax compact. By following the three-factor formula, JCI Group complied with the Missouri statutory taxing scheme and provided a clear reflection of its Missouri taxable income.

The Court did not address the question of whether the Director has authority to retroactively revoke the obligation to file consolidated returns because, assuming the Director has that power, it could be exercised only when the consolidated returns do not "clearly . . . reflect the Missouri taxable income derived from sources within this state."

The Court also ruled that jurisdiction over a petition for review of a decision of the AHC—even where the review involves the construction of the revenue laws of this state—lies in the Court of Appeals unless the Court orders transfer prior to opinion. In this case, the Court determined that an order transferring the case prior to opinion is appropriate. In the future, however, petitions for review of the decisions of the AHC construing the revenue laws of this state should be filed with the Court of Appeals and will come to the Supreme Court only after the party seeking review moves the Court to transfer prior to opinion and the Court sustains the motion.

## Sales Tax

**Brambles Industries, Inc. a/k/a Chep USA v. Director of Revenue**, No. 96-002534RV (AHC), decision issued March 2, 1998.

Brambles Industries, Inc. a/k/a Chep USA (Taxpayer) is engaged in the business of leasing tangle personal personal property. As a part of business it leased pallets to a manufacturing company, charged sales taxes on the lease payments and remitted the taxes to the department. The Taxpayer filed a refund application seeking a refund of the sales taxes it collected and remitted in connection with the lease of the pallets. It contended that the gross receipts from the lease of the pallets were excluded from the imposition of sales taxes as "sales for resale". The Director issued a Final Decision denying the refund. The Taxpayer appealed the Final Decision to the Administrative Hearing Commission (AHC).

The AHC found that the Taxpayer failed to produce evidence that its customer had a right to transfer ownership of or title to the pallets to the customer's customers. Based on this finding, the AHC concluded that the leases were not sales for resale.

## Income Tax

**Bucon, Inc., v. Director of Revenue**, No. 80359 (Mo. Supreme Court, 6/16/98).

The Missouri Supreme Court (Court) affirmed the Administrative Hearing Commission's (AHC) decision that certain income was not from a "transaction involving the sale of tangible property," but from a contract for construction services, and that the source of the income was partially within and partially without the state.

Bucon, Inc. (Taxpayer) builds and designs "pre-engineered" commercial buildings. Its home office, including its engineering department, two salespersons, a sales executive and field operations manager, is located in Kansas City, Missouri. Kansas City-based project managers draft contracts, track progress of their performance and supervise Taxpayer's on-site superintendents. None of the components for out-of-state projects are manufactured in, stored in or shipped from Missouri. Under a "materials-erect" contract, Taxpayer supervises the construction of the metal structure of the building and provides materials necessary for that construction. The building owner contracts out mechanical, electrical and archi-

tectural finish work to other contractors. Under a "turnkey" contract, Taxpayer is the general contractor and is responsible for all construction.

For tax years 1985 through 1991, Taxpayer elected the single factor apportionment formula under Section 143.451.2, RSMo, and reported income from the out-of-state materials-erect and turnkey contracts as wholly without Missouri, under Section 143.451.2(3), RSMo.

The Director reclassified the income as partially within and partially without Missouri and assessed deficiencies. The AHC held that the disputed income was from a contract for construction services and, since a large part of the supervisory and design work took place in Missouri, the source of the income was partially within and partially without Missouri.

The Court found that the provisions of the agreements presented by Taxpayer "strongly support the conclusion that the object of these transactions was the performance of . . . construction services, not the transfer of ownership in tangible property." The Court held that Taxpayer was not entitled to apportion this income as wholly without the State under Section 143.451.2(3), RSMo.

## Income Tax

**James T. Tullos v. Director of Revenue**, Case Nos. 97-000418 RI and 97-001945 RI (AHC, 6/12/98).

The Administrative Hearing Commission (AHC) determined that James T. Tullos (Taxpayer) was a Missouri resident for 1991 and 1993 and liable for Missouri income tax and interest for those periods.

Taxpayer lived in St. Louis, Missouri, from 1958 to 1985, when he moved to New York. In 1987 he moved to Texas, where his mother lived. In 1987 Taxpayer began renting an apartment in St. Louis so he could visit his children. He intended to return to St. Louis to live after his mother passed away. Since 1958 Taxpayer has used a St. Louis tax preparer and has filed tax returns with a St. Louis address. He registered to vote in Missouri in approximately 1960 and has not changed that registration. During 1991 and 1993 Taxpayer shared the St. Louis apartment with another individual and paid half the rent. He spent approximately 85 days in Missouri in 1991 and 90 days in Missouri in 1993. He spent the remainder of 1991 and 1993 in Texas with his mother, who was elderly and ill. Taxpayer received a Missouri operator's license in 1959 and it has never expired. During 1991 and 1993 he

owned one automobile, which was licensed in Missouri.

Taxpayer did not file Missouri returns for 1991, 1992 or 1993. After receiving information from the Internal Revenue Service about Taxpayers 1991 and 1993 income, the Director assessed Taxpayer tax, interest and additions to tax for 1991 and 1993.

Section 143.101.1, RSMo, defines a resident as "an individual who is domiciled in this state, unless he (1) maintains no permanent place of abode in this state, (2) does maintain a permanent place of abode elsewhere, and (3) spends in the aggregate not more than thirty days of the taxable year in this state." The AHC determined that Taxpayer did not abandon his Missouri domicile when he moved to New York in 1985 or to Texas in 1987 and concluded that he remained a Missouri domiciliary since approximately 1960. The exception to residency under Section 143.101.1, RSMo, does not apply because in both 1991 and 1993 Taxpayer spent more than 30 days in Missouri and maintained a permanent place of abode in Missouri. Taxpayer was a Missouri resident for 1991 and 1993 and liable for tax and interest.

## Sales Tax

**Ozark Fisheries, Inc. v. Director of Revenue**, Case No. 97-001491RV (AHC), 4/15/98.

Ozark Fisheries, Inc., (Taxpayer) is engaged in the business of aquaculture, fish farming. Issuing an exemption certificate to its sellers, it purchased various chemicals for use in its farming operations. After an audit, the Director issued Final Decisions assessing the Taxpayer for the taxes that were avoided by issuance of the exemption certificates. The Taxpayer appealed the Final Decisions to the Administrative Hearing Commission (AHC). It contended that the purchases were exempt under Section 144.030.2(1), RSMo, because the fish it raised were "crops". The Director took the position that fish are not crops.

The AHC found that the term "crop" as used in Section 144.030.2(1), RSMo, did not include fish. It stated that there was no indication in the Missouri Revised Statutes that the General Assembly intended to include fish within the definition of "crop". Based on this finding, it concluded that the purchases of pesticides and other chemicals were not exempt.

## Update

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employees. The costs are reimbursed through tax credits against income and financial institution taxes. The maximum amount per employee is the lesser of 50% of the classroom training costs or \$1,500. The total statewide credit is capped at \$6 million per year. (7) Limits the tax credit for contributions to innovation centers after 1/1/99, to commercial activities which are located in a distressed community and increases the amount of the credit from the current 30% to 50% of qualified contributions. The percentage of amounts that may be qualified investments in a qualified fund is increased from 80% to 90%. The aggregate amount of the credit is increased to \$9 million.

The bill also authorizes an income tax credit for businesses producing charcoal or charcoal products as an incentive to implement safe and efficient environmental controls. The tax credit is equal to 50% of certain technological equipment purchased or manufactured.

In addition, the bill adds photofinishing laboratory activities and microfilm recording and developing services into the defin-

ition of a "revenue producing enterprise" for purposes of the enterprise zone and urban redevelopment tax credits, if that revenue producing enterprise employs a minimum of 150 employees at a single business facility. Signed 06/29/98.

**HB 1694 - Higher Education Financial Assistance** - Outlines the Advantage Missouri Program (AMP) and the MOSTARS Higher Education Savings Program (MHESP).

The AMP establishes income tax credits of up to 50% for contributions made to the Advantage Missouri Trust Fund. Individuals or entities may receive the tax credit for contributions of up to \$100,000 per taxpayer, effective 1/1/99. The DOR administers these tax credits, which are limited to \$5 million each year.

The MHESP allows participants to contribute or save up to \$8,000 per year for a child's post-secondary education. This program exempts from state income tax the income earned or received from the fund by participants or beneficiaries, as long as the income is maintained, accrued, or expended in accordance with the requirements of the plan. Signed 07/02/98.

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## Sales Tax

**Banta Corporation v. Director of Revenue**, Case No. 97-001596RV (AHC), 4/15/98.

Banta Corporation (Taxpayer) is engaged in the business of printing and selling magazines and other periodicals. As a result of the printing process, it produces waste paper. Using various pieces of machinery and equipment, it shredded and baled the waste paper which it sold. After an audit, the Director assessed the Taxpayer sales taxes on its purchases of the machinery and equipment used to produce the shredded and baled paper. The Taxpayer paid the taxes under protest, claiming an exemption under Section 144.030.2(5), RSMo 1994. The Director issued a Final Decision denying the payment under protest and the taxpayer appealed to the Administrative Hearing Commission (AHC).

The AHC found that the act of gathering the waste paper, sorting and baling it, to be manufacturing, and that the subject machinery and equipment was used to expand the manufacturing plant. Based on these findings, the AHC concluded that the purchases of the machinery and equipment were exempt under Section 144.030.2(5).

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**SB 558 - Project Exemption Certificate** - Provides protections for a contractor receiving a project exemption certificate from an exempt entity. If the exempt entity does not have the authority to use the project exemption certificate process, or if the project is not related to the exempt entity's exempt functions, the exempt entity is liable for any sales and use tax that may be due instead of the contractor. Signed 06/30/98.

**SB 619 - Motor Fuel Tax; Fuel Conservation; Air Conservation** - This bill is a complete rewrite of the Motor Fuel Tax statutes and moves the incidence of tax to the rack. It also requires certain state vehicles to use alternate fuels and allows reformulated gasoline use in St. Louis. Signed 07/10/98.

**SB 627 - Telecommunications and Local Utilities** - This proposal specifically exempts Internet access fees from sales/use taxes and restructures sales tax statutes regarding telecommunications to reflect changes in technology, particularly the mode of delivery of such services. It does not create any additional taxable transactions or exemptions over current law. The bill also provides a mechanism for local governments to recoup potential tax revenue losses due to deregulation of utilities. This local tax is not collected by the DOR. Signed 07/10/98.

**SB 675 - Income Tax** - Increases the qualifying income levels used to determine eligibility and the credit amount for the property tax credit. The maximum level of income allowed to qualify is increased from the current amount of \$15,000 to \$25,000 and the minimum base is increased from the current level of \$5,900 to \$13,000. The increases are effective 1/1/98.

It also modifies the table from which the allowable property tax credits are calculated, allows claimants who are between the age of 60 and 65 to qualify for the credit if Social Security surviving spouse benefits are received. The bill requires the DOR to identify any person who has not filed a property tax credit who may potentially be eligible and notify that person of potential eligibility.

In addition, the bill increases the dependency deduction from the current level of \$400 per dependent to \$1,200 for tax years beginning 1/1/98. An additional \$1,000 deduction is authorized for a dependent who is at least 65 years of age, who resides in the taxpayer's home, the depen-

dent's home, or resides in certain care facilities (as long as the dependent does not receive Medicaid or state funding). Signed 07/08/98.

**SB 724 - Nonresident Entertainers** - Expands the definition of nonresident entertainers to include corporations registered outside the state. Any person or business entity paying compensation to a nonresident entertainer is required to withhold two percent of the total compensation as a prepayment of tax. Compliance with this requirement exempts the nonresident entertainer from being considered a transient employer pursuant to Chapter 285, RSMo. Signed 07/02/98.

**SB 781 - Desegregation** - Addresses the issue of desegregation and related education reform. A tax credit for certain expenses paid for students participating in an approved district-mentoring program is established. The Department of Elementary and Secondary Education will provide the DOR written notification of each eligible student participating in an approved program, the student's school district, the name of the qualified taxpayer approved to receive a tax credit and the amount of such tax credit. The tax credit is nonrefundable but may be carried forward for four subsequent taxable years. Signed 06/23/98.

**SB 827 - Economic Development** - This bill makes various changes to tax credit programs related to economic development.

The bill also: (1) Authorizes a strategic initiative investment income tax refund for automobile manufacturers or assemblers located within a state enterprise zone. (2) Authorizes a credit against income tax and financial institution tax for up to 50% of the amount of investment in production or production-related activities by a qualified film production company. (3) Authorizes an income tax credit equal to 25% of the purchase price of all new equipment and materials used directly in growing grapes or producing wine within the state. Each grower and producer is required to apply to the DED and specify the total amount of qualified expenditures for the calendar year. The credit is limited to five tax periods. Signed 07/09/98.

**SB 861 - Transportation Development Districts** - This bill makes the DOR responsible for collection of transportation development district sales taxes only when the district imposing the tax is comprised of a full city, full county or a full city and a full county. Such districts are prohibited

from mortgaging, pledging or giving deeds of trust on any real property acquired by eminent domain or property acquired from the State of Missouri or any political subdivision without permission of the state or local government from which it obtained the property. Signed 07/09/98.

**SB 936 - Sales Tax Exemptions and Local Sales Tax** - The bill provides a definition of the phrase, "product which is intended to be sold ultimately for final use or consumption." The definition states that if a service is "subject to state or local sales or use taxes, or any tax that is substantially equivalent thereto, in this state or any other state," it is a product. Bill also amends Section 144.030.2(4)(5), RSMo, the effect which the department is reviewing for rule or regulation changes. The bill changes the length of time allowed for a sales tax trade-in credit and insurance replacement credit for motor vehicles, trailers, boats and outboard motors from 90 days to 180 days before or after the sale of the original article. It provides that the trade-in credit applies if a properly assigned certificate of ownership transfers the article. The insurance replacement credit is allowed if the contract to purchase the subsequent vehicle is completed within the 180-day period. The trade-in credit is allowed for a **subsequent** purchase of a vehicle, rather than a **replacement** purchase of a vehicle. Credit for sales tax purposes is allowed when any of the four types of items (motor vehicles, trailers, boats, or outboard motors) are used as a trade-in for any of those four types of items (boats for cars, outboard motors for boats, etc.). The definition of **motor vehicle** is broadened to include recreational vehicles and truck-trailer combinations.

The bill also provides the following exemptions from sales and use tax or changes to existing exemptions:

- Limitation that feed for livestock or poultry only applies to livestock or poultry that is sold ultimately in processed form or otherwise at retail is removed;
- Limitation that replacement machinery and equipment must be used for the same purposes or to produce a substantially similar product is removed and language regarding replacement parts has been added to the exemption;
- Language regarding replacement parts is added to the replacement machinery and equipment exemption, the new or expanded plant exemption, and the exemption for recycling facilities;

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## Letter Rulings

by General Counsel's Office, (573) 751-2633

The following is a list of the letter rulings issued during the period of January 1998 to June 30, 1998.

L10117	Missouri Consolidated Corporate Return	L10269	Fire Hydrant Connection
L10151	Printing	CL1007	Taxable/Nontaxable Construction Service
L10154	Printing Equipment	CL1021	Place of Amusement – Fitness Center
L10176	Qualified Subchapter S Subsidiary	CL1024	Fitness Center
L10178	Computer Hardware for Plant	CL1029	Federal Income Tax Deduction
L10192	Paint Removing Oven	CL1035	Lease/Rental of Property
L10208	Telephone “Hold” Messages	CL1037	Purchase of Aircraft
L10214	In-state Office Delivery From Out-of-state	CL1065	Place of Amusement – Fitness Center
L10219	Location for Tax	CL1098	Delivery in Missouri
L10220	Multistate Farm Income	CL1099	Place of Amusement – Fitness Center
L10222	Shopping Carts	CL1103	Income Tax Nexus
L10223	Remanufactured Equipment – Expansion	CL1110	Sales by Out-of-State Business
L10224	Telephone Services	CL1116	Place of Amusement – Fitness Center
L10247	Sales v. Use	CL1123	Late Fees on Video Rentals
L10267	Drapery and Carpeting	CL1135	Printing

Copies of the sanitized version of these letter rulings are available at a cost of \$1.10 plus sales tax of 6.225% each by writing to the Department of Revenue, General Counsel's Office, P.O. Box 475, Jefferson City, MO 65105-0475. Copies may also be obtained from the Department's Bulletin Board System (573) 751-7846 or its Internet Web Page (<http://dor.state.mo.us>).

### Update

from page 6

- Many items used in the production of newspapers are exempted including ink, computers, photosensitive paper and film, toner, printing plates, and other machinery, equipment, replacement parts and supplies;
- Electrical energy direct pay exemption is allowed for recycling facilities if the electrical energy costs exceed 10% of the total cost of production;
- Electrical energy direct pay exemption is allowed if a manufacturer or processor uses raw materials that contain at least 25% recycled materials (they do not have to meet the 10% requirement if these materials are used);
- Certain medical assistive devices, including home respiratory equipment, hospital beds, ambulatory aids, manual and powered wheelchairs, stairway lifts, Braille writers and electronic Braille equipment are exempted;
- If purchased by or on behalf of a person with one or more physical or mental disabilities, scooters, reading machines, electronic print enlargers, electronic alternative and augmentative communication devices, and items used to modify motor vehicles to permit the use of such vehicles by persons with disabilities are exempted;

- Over-the-counter or non-prescription drugs sold to individuals with disabilities are exempted;

- Adjuvants and foam markers used to enhance the application of pesticides are exempted;

- Lubricants used exclusively for farm machinery and equipment are exempted;

- Electrical energy or gas used in the production of cellular glass products are exempted;

- Pesticides and herbicides used in the production of crops, aquaculture, livestock or poultry are exempted;

- Items purchased for use or consumption in the research and development of prescription pharmaceuticals for humans and animals are exempted;

- Grain bins used to store grain for resale are exempted;

- Dog food purchased by commercial breeders is exempted;

- Purchases by a contractor on behalf of an exempt entity in another state under certain conditions are exempted;

- Expiration date for the cellulose casing refund provisions is removed; and,

- State sales tax (4.225%) on textbooks is removed if the textbook is purchased by a person enrolled in a degree program at a bookstore on the campus of an institution of higher learning (may include professional, vocational and technical schools). Local tax continues to apply.

This bill allows Macon County to impose a local economic development sales tax under the provisions of section 67.1300. The bill also describes another county; however, no county fits the description in the bill. Signed 07/10/98.

### Fischer Appointed Director of Taxation and Collection

Director Quentin Wilson announced the following staff appointment:

Carol Russell Fischer is the new Director of the Division of Taxation and Collection. Carol's career with the department actually began several years ago, when she worked in the Motor Vehicle Bureau. She eventually became Administrator of that bureau, leaving that post in 1994 for a position at a local hospital. Upon her return to the department, Carol was named Deputy Division Director of the Division of Motor Vehicle and Drivers License, and most recently served as Deputy Director of the Division of Taxation and Collection.

# Tax Calendar

## Due Dates for August – November 1998

### August

- 5 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 12 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 17 Individual Income Tax with  
Automatic Extension  
Monthly Withholding Returns  
Cigarette Tax Credit Account and Return  
Other Tobacco Products Monthly Report
- 19 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 20 Monthly Sales/Use Tax Returns  
Cigarette Tax Cash Accounts
- 26 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 31 Motor Fuel/Special Fuel Reports  
Quarterly Insurance Tax Payments

### September

- 3 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 10 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 15 Estimated Tax Declarations for  
Individuals  
Declaration of Estimated for Calendar  
Year Corporations

- Monthly Withholding Returns  
Cigarette Tax Credit Account and Return  
Other Tobacco Products Monthly Report  
Calendar Year Cooperatives with  
Extension
- 18 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 21 Monthly Sales/Use Tax Returns  
Cigarette Tax Cash Accounts Return
- 25 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 30 Motor Fuel/Special Fuel Reports

### October

- 5 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 13 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 15 Corporation Income Tax with  
Automatic Extension  
Cigarette Tax Credit Account and Return  
Other Tobacco Products  
Monthly Reports
- 20 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment  
Cigarette Tax Cash Accounts Return
- 27 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment

### November

- 2 Monthly Sales/Use Tax Returns  
Quarterly Sales/Use Tax Returns  
Quarterly Withholding Returns  
Monthly Withholding Returns  
Motor Fuel/Special Fuel Reports  
Tire Fee  
Quarterly Insurance Tax Payments  
Quarterly Interstate Fuel Tax  
User Report
- 4 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 12 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 16 Monthly Withholding Returns  
Cigarette Tax Credit Account and Return  
Other Tobacco Products Monthly Reports  
Calendar Year Trusts with an Automatic  
Extension to file 1997 Form MO-1120
- 18 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 20 Monthly Sales/Use Tax Returns  
Cigarette Tax Cash Accounts Return
- 25 Quarter-Monthly Sales Tax  
Quarter-Monthly Withholding Payment
- 30 Motor Fuel/Special Fuel Reports  
Quarterly Insurance Tax Payments

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